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CHARLES ELMORE CROPLEY

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1951

No. 426

THE UNITED STATES OF AMERICA,
Appellant,

vs.

CLARENCE E. HOOD, JR., FRANK F. MIZE, BASCOM C. REASLEY, ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

STATEMENT OPPOSING JURISDICTION

W. S. Henley,
Will S. Wells,
R. W. Thompson, Jr.,
E. B. Todd,
J. Ed Franklin,
Allan T. Edwards,
Clarence R. Scales,
Jeff Wills,
Bidwell Adam,
A. F. Summer,
Ben F. Cameron,
Counsel for Appellees.

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

No. 2164

UNITED STATES OF AMERICA

vs.

CLARENCE E. HOOD, ET AL.

STATEMENT OF APPELLEES UNDER RULE 12(3)

(Filed October 18, 1951)

Come the Appellees (defendants in the court below), having been served with notice of appeal and with statement of Appellant under Rule 12 of the Rules of this Honorable Court, and file this their statement under said Rule.

1. They are advised that Appellant seeks reversal solely on the ground that the court below erred in its construction of 18 U. S. C. 215. They submit that the court below was correct in its construction of said statute.

2. The question of the validity and constitutionality of said statute was not submitted to, or considered, or passed upon by the court below solely at the instance and request of the Appellant.

3. Appellees had filed their motions to dismiss and other pleadings, as shown by the record, attacking the constitu-

tionality and validity of said statute and raising many other questions as will appear from the face of their said pleadings. Appellees were ready to present to the court below each and all of said questions and requested the court to proceed with the hearing on all of the questions raised by them. Appellant announced that it was not ready to proceed with the argument of said constitutional questions, and said other questions but requested the court to proceed to the hearing of the narrow question of the applicability of said statute to the non-existent office of Chairman of the County Ration Board under the Office of Price Stabilization in Mississippi.

4. Appellees made known at said time and at every stage of the proceedings their reliance on the constitutional questions raised by them, and the other questions set up in their pleadings and their readiness to present their argument on said questions to the court.

5. The piece-meal presentation of the issues raised by Appellees' pleadings results entirely from the choice and act of Appellant, and Appellees stand ready to present all of the questions raised by their pleadings at this time, and every other stage of the proceedings.

6. Appellees present the question of jurisdiction to this Honorable Court in firm reliance on the constitutional and other questions raised by their pleadings, and on the assumption that, if this Honorable Court should conclude that the court below erred in its decision on the application of the statute, the cause will be remanded to the court below for hearing and determination of the constitutional and other questions raised by the pleadings of Appellees.

Johnson v. *Zerbst*, 58 S. Ct. 1019, 304 U. S. 458, 82 L. Ed. 1461;

Kennedy v. *Silas Mason Company*, 68 S. Ct. 1081, 334 U. S. 249, 92 L. Ed.;

Alma Motor Company v. *Timkin, etc., Company*, 329 U. S. 129, 91 L. Ed.;

Rescue Army v. *Municipal Court of Los Angeles*, 331 U. S. 549, 91 L. Ed.;

Aircraft, etc., Corporation v. *Hirsch, et al.*, 331 U. S. 752, 91 L. Ed. 1796;

United States v. *Petrillo*, 332 U. S. 1, 91 L. Ed. 1877.

Respectfully submitted,

(S.) W. S. Henley,
(S.) Will S. Wells,
(S.) R. W. Thompson, Jr.,
(S.) E. B. Todd,
(S.) J. Ed Franklin,
(S.) Allan T. Edwards,
(S.) Clarence R. Scales,
(S.) Jeff Wills,
(S.) Bidwell Adam,
(S.) A. F. Summer,
(S.) Ben F. Cameron,
Attorneys for Appellees.